

Order

Entered: November 1, 2002

2002-32

Proposed Amendment of Rule 2.502
of the Michigan Court Rules

Michigan Supreme Court Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.502 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford any interested person the opportunity to comment on the form or the merits of the proposal. The Court welcomes the views of all who wish to address the proposal or who wish to suggest alternatives. Before adoption or rejection, the proposal will be considered by the Court at a public hearing. Notice of future public hearings will be posted by the Court at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The present language would be amended as indicated below.]

Rule 2.502 Dismissal for Lack of Progress

(A) Notice of Proposed Dismissal.

- (1) On motion of a party or on its own initiative. ~~The~~ court may notify the parties in those actions in which no steps or proceedings appear to have been taken within 91 days that the action will be dismissed for lack of progress unless the parties show that progress is in fact being made or that the failure to prosecute is not due to the fault or lack of reasonable diligence of the party seeking affirmative relief.

(2) - (3) [Unchanged.]

(B) - (C) [Unchanged.]

Staff Comment: The proposed amendment of MCR 2.502(A)(1) would allow a party to seek the dismissal of a case for lack of progress. The rule currently permits only the court to initiate a dismissal for want of prosecution.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by February 1, 2003, Clerk's Office, Michigan Supreme Court, P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to File No. 2002-32. Your comments and the comments of others will be posted at www.courts.michigan.gov/supremecourt.